

REMARKS

Applicant has amended claims 1, 9, 11, and 12 and added new claims 13-26.

Applicant respectfully submits that the originally-filed disclosure (i.e., the originally filed drawings and specification, including the claims) fully supports the subject matter recited in the amended claims and in the new claims. For example, regarding amended claim 1, the originally-filed disclosure fully supports the recitation of an interlocking assembly "configured to interlock the edges of the panels via lateral movement of one panel with respect to the other." By way of example, Applicant notes the specification at page 4, line 21 through page 5, line 18, as well as Figs. 1-8 of the drawings.¹

The original disclosure also fully supports the recitation in amended claim 11 and new claim 26 concerning "a tongue located on . . . [an] upper member and a groove located on . . . [an] upper member," and the recitation in amended claim 12 concerning the "upper member having a tongue . . . and a groove." For example, the Examiner's attention is directed to the specification at page 4, lines 22-25 and page 5, lines 8-9 and the drawings at Figs. 4 and 5.

Furthermore, the original disclosure fully supports claim 24's recitation of a "groove [that] has an opening facing in a lateral direction." For example, such subject matter is shown in Figs. 2-8.

Accordingly, the present amendment fully complies with 35 U.S.C. § 112, first paragraph.

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¹ In light of at least that disclosure, Applicant respectfully disagrees with the assertions in the Advisory Action dated January 7, 2004, concerning the issue of new matter.

In the final Office Action dated August 15, 2003, claims 1, 3, 7, and 9-12 were rejected under 35 U.S.C. § 102(b) based on U.S. Patent 5,572,842 to Stief et al. ("Stief et al."). Claims 2, 5, 6, and 8 were rejected under 35 U.S.C. § 103(a) based on Stief et al. in view of International Application Publication No. WO 82/03099; and claim 4 was rejected under 35 U.S.C. § 103(a) based on Stief et al. alone.

As discussed below, Applicant respectfully submits that these rejections should be withdrawn because Stief et al. lacks disclosure or suggestion of the subject matter recited in independent claims 1, 11, and 12, as amended.

Regarding amended claim 1, Stief et al. does not disclose or suggest a flooring panel, including, among other elements, "at least one part of an interlocking assembly, . . . wherein the interlocking assembly is configured to interlock the edges of the panels via lateral movement of one panel with respect to the other." As shown in Fig. 2A of Stief et al., that reference discloses a downward-facing convexity 17 that is snapped into a positive locking engagement in an upward facing depression or recess 18. See col. 4, lines 51-55. In contrast to the subject matter recited in claim 1, the movement that causes the convexity 17 to be engaged in the depression or recess 18 is a vertical movement (illustrated by a broken line passing through convexity 17 in Fig. 2A), not a lateral movement. Accordingly, amended claim 1 should be allowable over Stief et al.

Stief et al. also lacks disclosure or suggestion of amended claim 11's recitation of "a tongue located on . . . [an] upper member and a groove located on . . . [an] upper member," and amended claim 12's recitation of an "upper member having a tongue . . . and a groove." According to Applicant's understanding, the Office Action cites Stief et al.'s disclosed convexity 17 and depression or recess 18 for the asserted disclosure of a

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tongue and groove, respectively. That subject matter is disclosed as being part of Stief et al.'s floor sheeting 7, which the Office Action apparently cites for the asserted disclosure of a lower member, rather than being part of the top floor 1, which the Office Action apparently cites for the asserted disclosure of an upper member. Therefore, claims 11 and 12 should be allowable over the cited references.

Turning now to the new claims, Stief et al. does not disclose or suggest the subject matter of independent claims 14, 24, and 26.

New independent claim 14 recites a plurality of flooring panels, including a first flooring panel that comprises a first upper member and a second a second flooring panel that comprises a second upper member. In contrast, Stief et al. discloses a floor including a sub floor, an intermediate floor 1 formed of individual elements 1.1, 1.2 that are joined together, and a top floor 2 that is formed by distributing a liquid floor fill over the top of the intermediate floor 1. Col. 2, lines 10-12, col. 4, lines 15-21 and col. 5, lines 3-5. Since Stief et al. discloses that the top floor 2 results from the distribution of the liquid floor fill over the top of the intermediate floor 1, the top floor 2 is a single piece of fill material and there is no disclosure of a combination including a first flooring panel that comprises a first upper member and a second flooring panel that comprises a second upper member. Consequently, new claim 14 should be allowable.

Regarding new independent claim 24, Stief et al. does not disclose or suggest a "groove [that] has an opening facing in a lateral direction." As mentioned above, the Office Action apparently cites Stief et al.'s depression or recess 18 for the asserted disclosure of a groove. As shown in Fig. 2A of Stief et al., that depression or recess 18

has an opening that faces vertically upward, not in a lateral direction. Accordingly, claim 24 should be allowable.

With respect to new claim 26, since that claim recites "a tongue located on . . . [an] upper member and a groove located on . . . [an] upper member," it should be allowable for reasons at least similar to those discussed above in connection with claim 11.

For at least the reasons explained above, independent claims 1, 11, 12, 14, 24, and 26 should be allowable. Since claims 2-10, 13, 15-23, and 25 depend from one of claims 1, 14, and 24, those claims should also be allowable at least due to their dependency.

Applicant respectfully requests that the Examiner reconsider the application, withdraw the claim rejections, and issue a Notice of Allowability in a timely manner.

If a telephone conversation might advance prosecution of the present application, the Examiner is invited to contact the undersigned (571-203-2774).

Applicant notes that the Office Action and the Advisory Action contain numerous assertions regarding the claims, the disclosure, and the cited references. Applicant respectfully disagrees with a number of those assertions and declines to automatically subscribe to any of them, regardless of whether they are specifically identified above.

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Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By: _____


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